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10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 MARTIN J. WALSH, SECRETARY OF
13 LABOR, UNITED STATES DEPARTMENT
OF LABOR,

Case No.: 5:22-cv-1959

14 Plaintiff,

15 v.

16 NELDY'S R.C., INC., NELSON SENGSON
CASTRO, an Individual, JON NEIL ROQUE
17 CASTRO, an Individual,
18

19 Defendants.
20

COMPLAINT

Violations of Fair Labor Standards
Act (“FLSA”), 29 U.S.C §§ 201, *et seq.*

21 Plaintiff Martin J. Walsh, Secretary of Labor, United States Department of Labor,
22 brings this action to enjoin Defendants Neldy's R.C., Inc., Nelson Sengson Castro, and
23 Jon Neil Roque Castro (“Defendants”), from violating provisions of Sections 7, 11(c),
24 15(a)(2), and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended (“FLSA”),
25 29 U.S.C. §§ 207, 211(c), 215(a)(2) and 15(a)(5) and to recover amounts owed under the
26 FLSA to employees of Defendants, as listed by name in the attached Exhibit A to this
27 complaint, for the period of December 1, 2018 to July 31, 2021.
28

1. This Court has subject matter jurisdiction over this action under Section 17 of the FLSA, 29 U.S.C. § 217; this Court also has subject matter jurisdiction over this action under 28 U.S.C. § 1331 (federal question) and § 1345 (United States as Plaintiff).

2. (a) Defendant Neldy's R.C., Inc. is and at all relevant times has been a corporation in California with an office and place of business at 11411 Stanford Avenue, Garden Grove, California 92840, within the jurisdiction of this Court, and has been engaged in business as a residential care facility.

(b) On information and belief, Defendant Nelson Sengson Castro resides at 43350 San Fermin Pl., Temecula, California 92592, within the jurisdiction of this Court.

(c) Defendant Nelson Sengson Castro is and at all relevant times has been acting directly or indirectly in the interest of Neldy's R.C., Inc., in relation to the employees of Neldy's R.C., Inc., and is an employer under the FLSA § 3(d), 29 U.S.C. § 203(d).

(d) On information and belief, Defendant Jon Neil Roque Castro resides at 2055 Nordic Ave., Chino Hills, California 91709, within the jurisdiction of this Court.

(e) Defendant Jon Neil Roque Castro is and at all relevant times has been acting directly or indirectly in the interest of Neldy's R.C., Inc., in relation to the employees of Neldy's R.C., Inc., and is an employer under the FLSA § 3(d), 29 U.S.C. § 203(d).

3. Defendants' activities constitute, and at all times material hereto have constituted, related activities performed through unified operation or common control for a common business purpose; and are, and at all times material hereto have been, an "enterprise" as defined in the FLSA § 3(r), 29 U.S.C. § 203(r).

4. The aforesaid enterprise has, and at all times material hereto has had, employees engaged in commerce or in the production of goods for commerce, or in handling, selling or otherwise working on goods or materials which have been moved in or produced

1 for commerce. Said enterprise has, and at all times material hereto has had, an annual gross
2 volume of sales made or business done (exclusive of any excise taxes at the retail level, if
3 any, that were separately stated) of no less than \$500,000.00; and said enterprise consti-
4 tutes, and at all times material hereto has constituted, an “enterprise engaged in commerce
5 or in the production of goods for commerce” as defined in the FLSA § 3(s), 29 U.S.C.
6 § 203(s).

7 5. Defendants, individually and jointly, serving as agents for one another, have
8 controlled the material aspects of the employment relationship with all employees at
9 Neldy's R.C., Inc.'s place of business located at 11411 Stanford Avenue, Garden Grove,
10 California 92840, including, hiring, firing, setting pay rates, setting work schedules, as-
11 signing work, and preparing and maintaining pay records; these employees are listed in
12 the attached Exhibit A. As such, Defendants are jointly and severally liable for all back
13 wages due to their employees.

14 6. Defendants have violated the provisions of Sections 7 and 15(a)(2) of the
15 FLSA, 29 U.S.C. § 207 and § 215(a)(2), by employing employees engaged in commerce
16 or in the production of goods for commerce, within the meaning of the FLSA, or em-
17 ployed in an enterprise engaged in commerce or in the production of goods for com-
18 mercial, within the meaning of the FLSA § 3(s), 29 U.S.C. § 203(s), for workweeks
19 longer than 40 hours without compensating said employees for their employment in ex-
20 cess of 40 hours in such workweeks at rates not less than one and one-half times the reg-
21 ular rates at which they were employed.

22 7. Defendants have violated the provisions of Sections 11(c) and 15(a)(5) of the
23 FLSA, 29 U.S.C. § 211(c) and § 215(a)(5), by failing to maintain, keep, and preserve rec-
24 ords of employees and of the wages, hours, and other conditions and practices of employ-
25 ment maintained, as prescribed by the regulations promulgated by the Plaintiff-Secretary
26 pursuant to the authority granted in the FLSA and published in the Federal Register and
27 known as Title 29, Code of Federal Regulations, Part 516.

28 8. (a) During the period from December 2, 2018 to July 31, 2021, Defendants

1 have repeatedly and willfully violated and are violating the above-described provisions of
2 the FLSA.

3 (b) As a result of the violations of the monetary provisions of the FLSA, there
4 is unpaid overtime compensation due under the FLSA that is being withheld by the De-
5 fendants.

6 (c) A judgment permanently enjoining and restraining such violations of the
7 FLSA is specifically authorized by Section 17 of the FLSA, 29 U.S.C. § 217.

8 (d) A judgment enjoining and restraining the continued withholding of un-
9 paid overtime compensation due under the FLSA is specifically authorized by Section 17
10 of the FLSA, 29 U.S.C. § 217.

11 (e) Judgment awarding unpaid overtime compensation due under the FLSA,
12 plus an additional amount, as liquidated damages, that is equal to the amount of overtime
13 compensation that accrued under the FLSA, is specifically authorized by FLSA § 16(c),
14 29 U.S.C. § 216(c).

15 WHEREFORE, cause having been shown, the Secretary prays for a judgment
16 against Defendants as follows:

17 A. For an order pursuant to Section 17 of the FLSA, 29 U.S.C. § 217,
18 permanently enjoining and restraining Defendants, their officers, agents, servants,
19 and employees, and those persons in active concert or participation with them, from
20 prospectively violating the provisions of Sections 15(a)(2) and 15(a)(5) of the
21 FLSA, 29 U.S.C. §§ 215(a)(2) and 215(a)(5); and

22 B. For an order

23 (i) pursuant to FLSA § 16(c), 29 U.S.C. § 216(c) finding the Defendants lia-
24 ble for any unpaid overtime compensation that may be found by the Court to be
25 due under the FLSA plus an additional amount as and for liquidated damages,
26 equal to any overtime compensation found to have accrued under the FLSA, to
27 present and former employees of Defendants including the persons listed by name
28 on the attached Exhibit A; or

(ii) in any instances where liquidated damages are not awarded herein, restraining, pursuant to FLSA § 17, 29 U.S.C. § 217, the Defendants, their officers, agents, servants, and employees and all persons in active concert or participation with them, from continuing to withhold the payment of any unpaid overtime compensation that may be found by this Court to have accrued under the FLSA to present and former employees of Defendants including the persons listed by name on the attached Exhibit A, plus pre-judgment interest thereon; and,

C. Awarding the Secretary the costs of this action and providing such further legal and equitable relief as may be deemed appropriate.

Dated: November 7, 2022

SEEMA NANDA
Solicitor of Labor

MARC A. PILOTIN
Regional Solicitor

BORIS ORLOV

Counsel for Wage and Hour

/s/ Karla Malagon Castillo
KARLA MALAGON CASTILLO
Trial Attorney

/s/ Karina Wegman
KARINA WEGMAN
Trial Attorney

Attorneys for the Plaintiff
U.S. Department of Labor

Exhibit A

First Name	Last Name
Alfredo	Adoptante
Florante	Adoptante
Darrel	Adrian
Narciso	Aguilar
Maria	Alcantara
Lora	Aquino
Jed	Aquino
Paul	Arcinas
Gabriele	Arionday
Aries	Bansil
Rina	Bognot
Prince	Booc
Milagros	Borja
Marites	Boyer
Kyle	Bustillo
Marcelo	Caaway
Myrna	Cabaneros
John	Calimag Jr.
Gertrude	Canceran
Melquiades	Canceran
Jennelyn	Canlas
Corazon	Canlas
Leoncio	Canlas
Mark	Carreon
Reynaldo	Cerezo
Antonio	Co
Robert	Cruz
Purificacion	Cruz
Brian	David
Jerry	DeGuzman
Virgilio	DeLa Rosa
Vaun	DeLos Santos
Grazielle	Din
Nestor	Doroja
Jacob Dion	Draculan
Archieval	Espera

1	Arnie	Espera
2	Victorio	Esteves
3	Charmaine	Estigoy
4	Constancio	Estigoy
5	Myrna	Evangelista
6	Darrel	Familara
7	Norbert	Fernando
8	Rowen	Francisco
9	Luz	Francisco
10	Ramerl	Francisco
11	Rowel	Galit
12	Eldifonso	Gallego
13	Enriqueta Reinelda	Gallegos
14	Benjamin	Gamol
15	Alfredo	Garcia
16	Fe	Garcia Navarro
17	Gerry	Garino
18	Sussette	Gomez
19	Adam	Greco
20	Winnie	Greco
21	Conrado	Gutierrez
22	Hector	Huerta
23	Junias	Hutabarat
24	Redentor	Ison
25	Benjamin	Jacildo
26	Robert	Javier
27	Christian	Lumentah
28	Arsenio	Luna
	William	Luzadas
	Ruben	Manalang
	Gino	Manaloto
	Aiko	Manaloto
	Maria Karla	Manuel
	Nilo	Medina
	Rommel	Mendoza
	Jay	Miasco
	Elie	Naddour
	Funmilayo	Olaosebikan
	Jesusito	Orolfo
	Aries	Parchejo

1	Kevin	Pascua
2	John	Peñaflor
3	Ester	Poquiz
4	Alfonso	Poquiz
5	Felimon	Rambayon Jr.
6	Richard	Ratcliffe
7	Sabino	Razon
8	Carlo	Rivera
9	Michelle	Rojas, Castro
10	Jeffrey	Roque
11	Virgilio	Rosa
12	Ariston	Sabarre
13	Genaro	Salonga
14	Esmeralda	Salteras
15	Nicolas	Salteras
16	Omer	Sanga
17	Cornelio	Sanga Jr
18	Vaun	Santos
19	Adrian	Santos
20	Jacinto	Santos
21	Ronaldo	Saraza
22	Sandy	Silaban
23	Marites	Simbulan
24	Jaime	Tan
25	Guadalupe	Tapia
26	Walter	Templora
27	John Jacob	Tolentino
28	John Paul	Tunac
	Rodolfo	Villa
	Antonio	Villaluna
	Ryan	Villamer
	Mark	Vincent